

ORDER NO. 2924

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Tony Hammond, Vice Chairman;
Mark Acton; and
Nanci E. Langley

Competitive Product Prices
Global Reseller Expedited Package Contracts 2
(MC2013-51)
Negotiated Service Agreement

Docket No. CP2016-44

ORDER APPROVING ADDITIONAL GLOBAL RESELLER EXPEDITED PACKAGE
CONTRACTS 2 NEGOTIATED SERVICE AGREEMENT

(Issued December 23, 2015)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Reseller Expedited Package Contracts 2 (GREP 2) agreement (Agreement) within the GREP 2 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement, December 14, 2015 (Notice).

II. BACKGROUND

Agreements included within the GREP 2 product offer discounted prices for Priority Mail Express International, Priority Mail International, and Outbound Single-Piece First-Class Package International Service to U.S.-based consolidators, freight forwarders, and large shipping companies. These companies in turn serve as resellers that market shipping services at discounted prices to their customers, especially small- and medium-sized businesses.

On December 14, 2015, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the GREP 2 product and requests that the Agreement be added to the existing GREP 2 product. Notice at 4.

Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the GREP 2 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Agreement is intended to take effect no later than 30 days after the Postal Service receives the applicable regulatory approval. Notice, Attachment 1 at 2-3. If the effective date is the first of the month, the Agreement will expire one calendar year from the effective date. *Id.* at 3. If the effective date is not the first of the month, the Agreement will expire the last day of the month in which the effective date falls in the year subsequent to the effective date. *Id.*

In Order No. 2874, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with

applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.²

III. COMMENTS

The Public Representative filed comments on December 22, 2015.³ No other comments were received.

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes the Agreement is functionally equivalent to the baseline agreement and the negotiated prices in the Agreement should generate sufficient revenues to cover costs. PR Comments at 2. She opines that the Agreement exhibits similar cost and market characteristics to the baseline agreement; the negotiated prices appear to satisfy the requirements of section 3633(a); and suggests the Postal Service notify the Commission of the effective date of the Agreement and if the contract terminates earlier than scheduled. *Id.* at 3.

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the GREP 2 product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 1746, the Commission approved the addition of the GREP 2 product to the competitive product list and designated an

² Notice and Order Concerning Additional Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, December 15, 2015 (Order No. 2874).

³ Public Representative Comments on Postal Service Notice of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement, December 22, 2015 (PR Comments).

agreement as the baseline agreement for assessing the functional equivalence of agreements proposed for inclusion within the GREP 2 product.⁴

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the GREP 2 product. Notice at 4. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the GREP 2 product. *Id.* at 3. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms, but states that prices may differ. *Id.* at 3-4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁵

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the GREP 2 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's

⁴ See Docket Nos. MC2013-51 and CP2013-64, Order Adding Global Reseller Expedited Package Contracts 2 to the Competitive Product List Negotiated Service Agreement, June 13, 2013, at 8-10 (Order No. 1746).

⁵ Differences include, among others, revisions to existing articles, and the renumbering of several articles. *Id.* at 4-7.

institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. The addition of the Agreement to the GREP 2 product will not cause cost coverage for the product to fall below 100 percent because, as the Commission found in the FY 2014 Annual Compliance Determination (ACD), the product as a whole covers its attributable costs.⁶ Consequently, the Commission finds that the addition of the Agreement to the GREP 2 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the GREP 2 product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the GREP 2 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the GREP 2 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the ACD to ensure that they continue to comply with 39 U.S.C. § 3633(a).

⁶ Docket No. ACR2014, Fiscal Year 2014 Annual Compliance Determination Report, March 27, 2015, at 71, 76-82.

Other considerations. The intended effective date of the Agreement will be no later than 30 days after the Postal Service receives the applicable regulatory approval. Notice, Attachment 1 at 2-3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. If the effective date is the first of the month, the Agreement will expire one calendar year from the effective date. *Id.* at 3. If the effective date is not the first of the month, the Agreement will expire the last day of the month in which the effective date falls in the year subsequent to the effective date. *Id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2016-44 is included within the Global Reseller Expedited Package Contracts 2 (MC2013-51) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.7 Global Reseller Expedited Package Contracts

2510.7.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Reseller Expedited Package Services 2

Baseline Reference

Docket Nos. MC2013-51 and CP2013-64

PRC Order No. 1746, June 13, 2013

Included Agreements

CP2016-44, expires TBD
